

BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Accusation Against:

**LYNN JANE JOHNSTON**

5011 Rick Drive  
Santa Rosa, CA 95409

Registered Nurse License No. **246295**  
Public Health Nurse Certificate No. **PHN 33032**  
Nurse Practitioner Certificate No. **NP 2078**  
Nurse Practitioner Furnishing No. **NPF 2078**

Respondent

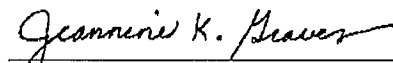
Case No. 2011-614

**DECISION AND ORDER**

The attached Stipulated Surrender of License and Order is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **May 11, 2011.**

IT IS SO ORDERED **May 11, 2011.**



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President  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
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*Attorneys for Complainant*

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8 **BEFORE THE**  
**BOARD OF REGISTERED NURSING**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
10 **STATE OF CALIFORNIA**

11 In the Matter of the Accusation Against:

Case No. 2011-614

12 **LYNN JANE JOHNSTON**  
13 **5011 Rick Drive**  
**Santa Rosa, CA 95409**

**STIPULATED SURRENDER OF  
LICENSES AND ORDER**

14 **Registered Nurse License No. RN 246295**  
15 **Public Health Nurse Certificate No. PHN 33032**  
16 **Nurse Practitioner Certificate No. NP 2078**  
**Nurse Practitioner Furnishing No. NPF 2078**

17 Respondent.

18  
19 IT IS HEREBY STIPULATED AND AGREED by and between the parties in this  
20 proceeding that the following matters are true:

21 PARTIES

22 1. Louise R. Bailey, M.Ed., RN (Complainant), is the Executive Officer of the Board of  
23 Registered Nursing (Board), Department of Consumer Affairs. She brought this action solely in  
24 her official capacity and is represented in this matter by Kamala D. Harris, Attorney General of  
25 the State of California, by Leslie E. Brast, Deputy Attorney General.

26 2. Lynn Jane Johnston (Respondent) is represented in this proceeding by attorney  
27 Robert W. Stewart, whose address is 24 Professional Center Parkway, Suite 100, San Rafael,  
28 CA 94903.

3. The Board issued the following license, certifications and furnishing number to Respondent:

- Registered Nurse License Number RN 246295 on or about August 31, 1974;
- Public Health Nurse Certificate Number PHN 33032 on or about August 15, 1982;
- Nurse Practitioner Certificate Number NP 2078 on or about March 5, 1986;
- Nurse Practitioner Furnishing Number NPF 2078 on or about December 30, 1992.

Respondent's license, certifications and furnishing number were in full force and effect at all times relevant to the charges brought herein and will all expire on October 31, 2011, unless renewed.

## JURISDICTION

4. Accusation No. 2011-614 was filed before the Board and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on January 12, 2011. Respondent timely filed her Notice of Defense contesting the Accusation. A copy of Accusation No. 2011-614 is attached as Exhibit A and incorporated by reference.

## ADVISEMENT AND WAIVERS

5. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 2011-614. Respondent also has carefully read, fully discussed with counsel, and understands the effects of this Stipulated Surrender of License and Order:

6. Respondent is fully aware of her legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at her own expense; the right to confront and cross-examine the witnesses against her; the right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

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1           7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and  
2 every right set forth above.

3                                   CULPABILITY

4           8. Respondent admits the truth of each and every charge and allegation in Accusation  
5 No. 2011-614, agrees that cause exists for discipline, and hereby surrenders for the Board's  
6 formal acceptance: Registered Nurse License Number RN 246295; Public Health Nurse  
7 Certificate Number PHN 33032; Nurse Practitioner Certificate Number NP 2078; and Nurse  
8 Practitioner Furnishing Number NPF 2078.

9           9. Respondent understands that by signing this stipulation she enables the Board to issue  
10 an order accepting the surrender of her license, certifications and furnishing number without  
11 further process.

12                                   CONTINGENCY

13           10. This stipulation shall be subject to approval by the Board of Registered Nursing.  
14 Respondent understands and agrees that counsel for Complainant and Board staff may  
15 communicate directly with the Board regarding this stipulation and surrender, without notice to or  
16 participation by Respondent or her counsel. By signing the stipulation, Respondent understands  
17 and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the  
18 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
19 Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or  
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
21 and the Board shall not be disqualified from further action by having considered this matter.

22           11. The parties understand and agree that facsimile copies of this Stipulated Surrender of  
23 License and Order, including facsimile signatures thereto, shall have the same force and effect as  
24 the originals.

25           12. This Stipulated Surrender of License and Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order

1 may not be altered, amended, modified, supplemented, or otherwise changed except by a writing  
2 executed by an authorized representative of each of the parties.

3 13. In consideration of the foregoing admissions and stipulations, the parties agree that  
4 the Board may, without further notice or formal proceeding, issue and enter the following Order:

5 **ORDER**

6 IT IS HEREBY ORDERED that Registered Nurse License Number RN 246295, Public  
7 Health Nurse Certificate Number PHN 33032, Nurse Practitioner Certificate Number NP 2078,  
8 and Nurse Practitioner Furnishing Number NPF 2078, issued to Respondent Lynn Jane Johnston,  
9 are surrendered and accepted by the Board of Registered Nursing.

10 1. The surrender of Respondent's license, certifications and furnishing number, and the  
11 acceptance of the surrendered license, certifications and furnishing number by the Board, shall  
12 constitute the imposition of discipline against Respondent. This stipulation constitutes a record of  
13 the discipline and shall become a part of Respondent's license history with the Board.

14 2. Respondent shall lose all rights and privileges as a registered nurse, public health  
15 nurse or nurse practitioner in California as of the effective date of the Board's Decision and  
16 Order.

17 3. Respondent shall cause to be delivered to the Board her pocket license(s) and, if  
18 issued, her wall certificate(s), on or before the effective date of the Decision and Order.

19 4. If Respondent ever files an application for licensure or a petition for reinstatement in  
20 the State of California, the Board shall treat it as a petition for reinstatement. Respondent must  
21 comply with all the laws, regulations and procedures for reinstatement of a revoked license in  
22 effect at the time the petition is filed, and all of the charges and allegations contained in  
23 Accusation No. 2011-614 shall be deemed to be true, correct and admitted by Respondent when  
24 the Board determines whether to grant or deny the petition.

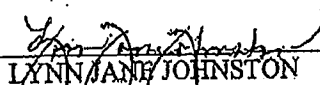
25 5. Prior to any future reinstatement of the license, certifications or furnishing number,  
26 Respondent shall pay to the Board costs associated with its investigation and enforcement  
27 pursuant to Business and Professions Code section 125.3 in the amount of \$1,065.00.  
28 Respondent shall be permitted to pay these costs in a payment plan approved by the Board.

6. Respondent shall not apply for licensure or petition for reinstatement for two (2) years from the effective date of the Board of Registered Nursing's Decision and Order.

ACCEPTANCE


I have carefully read the above Stipulated Surrender of Licenses and Order and have fully discussed it with my attorney, Robert W. Stewart. I understand the stipulation and the effect it will have on my Registered Nurse License, Public Health Nurse Certificate, Nurse Practitioner Certificate, and Nurse Practitioner Furnishing Number. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the Board of Registered Nursing.

DATED: 3.6.11

  
LYNN JANE JOHNSTON  
Respondent

I have read and fully discussed with Respondent Lynn Jane Johnston the terms and conditions and other matters contained in this Stipulated Surrender of License and Order. I approve its form and content.

DATED: 3/14/11

  
ROBERT W. STEWART  
Attorney for Respondent

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ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the Board of Registered Nursing of the Department of Consumer Affairs.

Dated: March 15, 2011

Respectfully submitted,

KAMALA D. HARRIS  
Attorney General of California  
FRANK H. PACOE  
Supervising Deputy Attorney General



LESLIE E. BRAST  
Deputy Attorney General  
*Attorneys for Complainant*

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**Exhibit A**

**Accusation No. 2011-614**

1 KAMALA D. HARRIS  
Attorney General of California  
2 FRANK H. PACOE  
Supervising Deputy Attorney General  
3 LESLIE E. BRAST  
Deputy Attorney General  
4 State Bar No. 203296  
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5 San Francisco, CA 94102-7004  
Telephone: (415) 703-5548  
6 Facsimile: (415) 703-5480  
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11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. **2011-614**

13 **LYNN JANE JOHNSTON**  
14 **5011 Rick Drive**  
15 **Santa Rosa, CA 95409**

**A C C U S A T I O N**

16 **Registered Nurse License No. RN 246295**  
17 **Public Health Nurse Certificate No. PHN 33032**  
18 **Nurse Practitioner Certificate No. NP 2078**  
19 **Nurse Practitioner Furnishing No. NPF 2078**

20 Respondent.

21 Complainant alleges:

22 **PARTIES**

23 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her  
24 official capacity as the Executive Officer of the Board of Registered Nursing (Board),  
25 Department of Consumer Affairs.

26 2. The Board issued the following license, certifications and furnishing number to Lynn  
27 Jane Johnston (Respondent):

- 28 • Registered Nurse License Number RN 246295 on or about August 31, 1974;
- Public Health Nurse Certificate Number PHN 33032 on or about August 15, 1982;
- Nurse Practitioner Certificate Number NP 2078 on or about March 5, 1986;
- Nurse Practitioner Furnishing Number NPF 2078 on or about December 30, 1992.

Respondent's license, certifications and furnishing number were in full force and effect at all times relevant to the charges brought herein and will all expire on October 31, 2011, unless renewed.

#### JURISDICTION

3. This Accusation is brought before the Board under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Code section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

5. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

#### STATUTORY PROVISIONS

6. Code section 2761, subdivision (f), provides that the Board may take disciplinary action against a licensed nurse for "[c]onviction of a felony or of any offense substantially related to the qualifications, functions, and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof."

7. Code section 2762 states, in pertinent part:

"In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

"...

"(b) Use any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to himself or herself, any other person, or the public or to the extent that such use impairs his or her

1 ability to conduct with safety to the public the practice authorized by his or her license.

2 “(c) Be convicted of a criminal offense involving the prescription, consumption, or

3 self-administration of any of the substances described in subdivisions (a) and (b) of this section,

4 or the possession of, or falsification of a record pertaining to, the substances described in

5 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence  
6 thereof.”

7 COST RECOVERY

8 8. Code section 125.3 provides, in pertinent part, that the Board may request the  
9 administrative law judge to direct a licentiate found to have committed a violation or violations of  
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
11 enforcement of the case.

12 FIRST CAUSE FOR DISCIPLINE

13 (Conviction of a Substantially Related Crime)

14 9. Respondent is subject to disciplinary action under Code section 2761, subsection (f),  
15 for conviction of one or more crimes substantially related to the qualifications, functions and  
16 duties of a registered nurse. The circumstances are as follows:

17 a. On or about May 28, 2009, in Sonoma County Superior Court Case Number SCR-  
18 557556, Respondent was convicted of having violated Vehicle Code section 23152(b)  
19 (driving with a blood alcohol concentration of .08 percent or more). The conviction  
20 arose from conduct that occurred on or about February 10, 2009. Imposition of  
21 sentence was suspended subject to Respondent's enrollment in and successful  
22 completion of a first offender drinking driver program. Respondent was also ordered  
23 not to drive with any alcohol in her system.

24 b. On or about May 28, 2009, in Sonoma County Superior Court Case Number SCR-  
25 561773, Respondent was convicted of having violated Penal Code section 647(f)  
26 (disorderly conduct—under the influence in public of drugs and/or alcohol). The  
27 conviction arose from conduct that occurred on or about April 30, 2009. Imposition of  
28 sentence was suspended and Respondent was ordered to attend 90 AA meetings in 90

1 days, submit to random chemical tests, not to possess or use any alcohol and to stay  
2 out of places where alcoholic beverages are the primary item of sale (bars/liquor  
3 stores).

4 c. On or about March 18, 2010, in Sonoma County Superior Court Case Number SCR-  
5 572895, Respondent was convicted of having violated Vehicle Code section 23152(a)  
6 (driving under the influence of an alcoholic beverage and/or drug), a felony; and  
7 Vehicle Code section 20001(a) (failure to stop at the scene of an accident involving  
8 injury to another). Both convictions arose from incidents that occurred on or about  
9 November 16, 2009.

10 SECOND CAUSE FOR DISCIPLINE

11 (Dangerous or Injurious Use of Alcohol/Drugs)

12 10. Respondent is subject to disciplinary action under Code section 2762, subsection (b),  
13 for use of any controlled substance, dangerous drug or alcohol to an extent or in a manner  
14 dangerous or injurious to herself, any other person or the public, or to the extent that such use  
15 impairs her ability to safely practice nursing. The circumstances are described in paragraph 9,  
16 above.

17 THIRD CAUSE FOR DISCIPLINE

18 (Conviction of Crimes Involving Alcohol/Drugs)

19 11. Respondent is subject to disciplinary action under Code section 2762, subsection (c),  
20 for conviction of a crime or crimes involving consumption or self-administration of alcohol  
21 and/or drugs. The circumstances are described in paragraph 9, above.

22 PRAYER

23 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
24 and that following the hearing, the Board of Registered Nursing issue a decision:

25 1. Revoking or suspending Registered Nurse License Number RN 246295, issued to

26 Lynn Jane Johnston;

27 2. Revoking or suspending Public Health Nurse Certificate Number PHN 33032, issued  
28 to Lynn Jane Johnston;

1           3.    Revoking or suspending Nurse Practitioner Certificate Number NP.2078, issued to  
2   Lynn Jane Johnston;

3           4.    Revoking or suspending Nurse Practitioner Furnishing Number NPF 2078, issued to  
4   Lynn Jane Johnston; ,

5           5.    Ordering Lynn Jane Johnston to pay the Board of Registered Nursing the reasonable  
6   costs of the investigation and enforcement of this case, pursuant to Business and Professions  
7   Code section 125.3;

8           6.    Taking such other and further action as deemed necessary and proper.

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DATED:

*1/12/11*

*Louise R. Bailey*

LOUISE R. BAILEY, M.ED., RN

Executive Officer

Board of Registered Nursing

Department of Consumer Affairs

State of California

*Complainant*

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